

HOUSE BILL REPORT

SSB 5456

As Reported by House Committee On: Judiciary

Title: An act relating to detentions under the involuntary treatment act.

Brief Description: Concerning detentions under the involuntary treatment act.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Schlicher, Becker, Keiser, Bailey, Frockt, Cleveland, Hargrove, Darneille and McAuliffe).

Brief History:

Committee Activity:

Judiciary: 3/21/13, 4/2/13 [DPA].

Brief Summary of Substitute Bill (As Amended by Committee)

- Requires a designated mental health professional (DMHP) evaluating a person for detention under the Involuntary Treatment Act to consult with examining emergency room physicians and document the consultation and the physician's observations and opinions.
- Requires a DMHP conducting an evaluation for an emergency detention to also evaluate the person under the nonemergency standard for detention.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Edie Adams (786-7180).

Background:

Under the Involuntary Treatment Act (ITA), designated mental health professionals (DMHPs) are responsible for investigating and determining whether to detain an individual who may be

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in need of involuntary mental health treatment. A DMHP may be a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker.

In emergency cases, the DMHP may detain a person without a court order for up to 72 hours if the person, as a result of a mental disorder, presents an imminent likelihood of serious harm or is in imminent danger due to being gravely disabled. In nonemergency cases, the DMHP may petition a court for an initial detention if the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled.

"Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions. "Likelihood of serious harm" means a substantial risk that a person will inflict physical harm on himself or herself, others, or the property of others. "Gravely disabled" means a danger of serious physical harm resulting from a failure to provide for essential health or safety needs, or a severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control combined with an absence of care essential for health or safety.

When conducting an evaluation for potential detention, the DMHP must investigate and evaluate any specific facts alleged and the reliability and credibility of any person providing information to initiate detention. The DMHP is specifically required to consider all reasonably available information from credible witnesses and records regarding any history of one or more violent acts, prior commitments under the ITA, prior determinations of incompetency or insanity, and prior recommendations for evaluation for incompetency or insanity in criminal proceedings. Credible witnesses include anyone with significant contact and history of involvement with the person.

Summary of Amended Bill:

A DMHP evaluating a person for detention under the ITA must consult with any examining emergency room physician regarding the physician's observations and opinions of the person's condition and whether, in the view of the physician, it is appropriate to detain the person. The DMHP must take serious consideration of observations and opinions by examining physicians when deciding whether a person should be detained, and must document the consultation and the physician's observations or opinions regarding whether detention of the person is appropriate.

A DMHP who conducts an evaluation for an emergency detention under the ITA must also evaluate the person for detention under the nonemergency standard of likelihood of serious harm or grave disability.

Amended Bill Compared to Substitute Bill:

The substitute bill provided that the fact that a mental disorder is caused by an underlying medical condition is not a reason to withhold involuntary detention, and the fact that a person has been involuntarily detained does not give the right to provide medical treatment against

the person's will except under specified circumstances. In addition, the substitute bill allowed an examining physician who disagrees with a DMHP's decision not to detain a person to submit a declaration describing why the physician thinks detention is appropriate, and requiring the DMHP to provide a written response to the declaration detailing the reasons the DMHP determined not to detain the person.

Appropriation: None.

Fiscal Note: Available on original bill. New fiscal note requested on March 28, 2013.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is in response to concerns of health care providers struggling with the challenge of treating patients who have mental disorders and medical conditions. Medical care and psychiatric care should not be treated separately. Regardless of the underlying cause, the immediate psychosis needs to be addressed. Often, the DMHP may not see the same symptoms as the physician because the DMHP arrives later after the patient has been sedated. There needs to be a process when there is disagreement between a physician and the DMHP. The physician can provide a declaration and statement regarding his or her willingness to testify. Most counties evaluate a person only under the immediate harm standard for detention, so many people are not getting the treatment they need. The health care provider community is frustrated by this.

(Opposed) The DMHPs already give serious consideration to physician's opinions and observations. Because DMHPs are not doctors, they need to rely on the expertise of examining physicians. It is not appropriate to commit a person for psychiatric treatment based on a mental disorder that is caused by an underlying medical condition. In these cases, the person needs appropriate medical care, not mental health treatment. The bill will shift costs to the mental health system. Once a person has been detained under the ITA, the hospital bill becomes a cost of the mental health system, even if treatment is mostly for medical conditions. This takes away additional resources from an already strained mental health system. The bill is ambiguous and creates uncertainty surrounding how it will be applied. Expanding civil commitment based on an underlying medical condition will put additional burdens on psychiatric facilities, which are not well-equipped to treat severe medical conditions. The bill focuses on expanding detention rather than supporting access to community mental health and medical resources.

Persons Testifying: (In support) Senator Schlicher, prime sponsor.

(Opposed) Jean Robertson, King County Regional Support Network; Emily Cooper, Disability Rights Washington; and Shankar Narayan, American Civil Liberties Union.

Persons Signed In To Testify But Not Testifying: None.